

MAIL STOP APPEAL  
O.I.P.E. JUN 15 2005  
PATENT & TRADEMARK OFFICE  
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MAIL STOP APPEAL  
BRIEF - PATENTS

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: D.A. Slawson et al. Attorney Docket No. MSFT112767  
Application No.: 09/224,009 Group Art Unit: 2176  
Filed: December 31, 1998 Examiner: W.L. Bashore  
Title: VISUAL THESAURUS

TRANSMITTAL OF REPLY BRIEF

Seattle, Washington 98101  
June 13, 2005

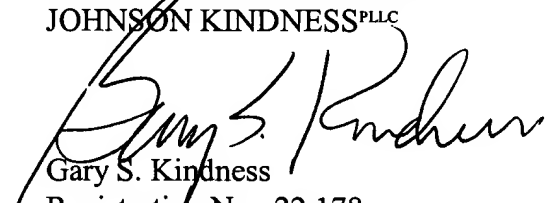
TO THE COMMISSIONER FOR PATENTS:

Enclosed herewith for filing in the above-identified patent application is a Reply Brief.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16, 1.17 and 1.18 which may be required during the entire pendency of the application, or credit any overpayment, to Deposit Account No. 03-1740. This authorization also hereby includes a request for any extensions of time of the appropriate length required upon the filing of any reply during the entire prosecution of this application.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Mail Stop Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date: June 13, 2005 Carolyn J. Mason

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MAIL STOP APPEAL

BRIEF - PATENTS

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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APPELLANTS' REPLY BRIEF IN ACCORDANCE WITH 37 C.F.R. § 41.41(a)

Seattle, Washington  
June 13, 2005

TO THE COMMISSIONER FOR PATENTS:

This paper is being filed in accordance with 37 C.F.R. § 41.41(a) and in response to an Examiner's Answer mailed on April 11, 2005.

ARGUMENT

In response to the five sections labeled with the letters (a) through (e) of the Response to Arguments portion of the Examiner's Answer beginning at page 15, Appellants submit the following responsive arguments.

a. Appellants' "Summary of Balogh et al." Is Accurate

Appellants disagree with the arguably misleading, abbreviated quotation taken from Appellants' "Summary of Balogh et al." at page 13 of the Appeal Brief set forth in italics on page 15 of the Examiner's Answer in italics. The full quotation reads as follows:

Balogh does not disclose retrieving information, including find similar clips indicia and keywords, associated with said selected media clip from the database, in response to a user selecting a media clip. Balogh also does not disclose displaying keywords associated with a selected multimedia clip for selection by a user for subsequent searching. Further, *Balogh does not disclose find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip.*

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The abbreviated quotation appears to imply that the claims are limited to find similar clips indicia and keywords that are based on the content of the media clips. Regardless of the correctness of this implication, the abbreviated quotation ignores the feature of the claims directed to the fact that the find similar clips indicia includes hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clips.

Appellants also disagree with the arguments that are based on the abbreviated quotation. First, by stating "images, along with its associated keywords and indicia (all pertinent information) are displayed at substantially the same time for possible further query," the Examiner's Answer appears to argue that Balogh retrieves information, including find similar clips indicia and keywords, associated with a selected media clip from a database, in response to a user selecting the media clip, as recited in various ways in the independent claims.

Although Balogh describes "[c]aptions that match queries (hits) are returned and displayed," the Balogh captions are word or language descriptions, not similar clips indicia, much less similar clips indicia that includes hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clips. As described in the specification of Balogh, the caption is a "description . . . of the salient features of the image. The caption may be a set of regular English language sentences, as opposed to merely a listing of unconnected keywords." Col. 3, lines 26-29.

The Examiner's Answer also argues that "[t]he query process is iterative, further queries can be formulated using previously displayed results as a base." However, the Balogh query "iterations" are still word or language queries, as described at Col. 14, lines 51-59:

From a user's perspective, such iterative querying is implemented by selecting the desired image using mouse clicks, and dragging the image into either the structured description area or the bibliographic area of the screen. ***The caption or the bibliographic data from the selected image is then copied to form the new query, just as if the same information had been input directly by the user,*** and

the user may make further additions, deletions, or modifications to this information as desired.

As described in the section of Balogh quoted above, dragging an image into a description area copies description data (caption language) into the new query as if that data had been input by the user, and therefore creates a modified word or language query. *See also* Examiner's Answer, at page 18 ("Balogh teaches that the associated criteria/keywords are copied and can be 'further edited' . . . , a user can then change one keyword while keeping all other criteria the same . . .").

In contrast, however, in the exemplary embodiment described in the specification, the find similar clips indicia of the claimed invention is invoked by pressing the find similar clips button 82, as described in the specification at page 9, lines 22-27 (FIGURE 2A). Upon pressing the find similar clips button, a find similar clips interface 90 is displayed, with buttons 92, 94, and keywords, for example, 98A and 98B (FIGURE 2B).

Second, the Examiner's Answer argues that Balogh teaches criteria associated with images or media clips, with "associations and suggestions authored by a human user using his/her judgment." At most, Balogh teaches that a "captioner" verifies the quality of the image data and the bibliographic data, and writes a short "caption," or a description of the salient features of the image, and to select certain attributes of the image. *See* Col. 3, lines 21-29. Col. 3, lines 29-43 go on to state:

The attributes may include, for example the type of image (photograph, computer-generated graphic, video clip, or other multimedia object, background pattern, portrait, abstract, aerial, or special effect), predominant hue, and image orientation (landscape or portrait). The captioner also provides as part of the metadata a suggest text field describing the emotional suggestions evoked by the image . . . . Collectively, the bibliographic data, the caption, the attributes and the suggests field are known as the 'metadata' associated with the image.

As the Examiner's Answer admits, the "caption" that identifies and/or groups media clips is not "hidden criteria." *See also* FIGURE 12; Col. 16, lines 40-62 ("match list command

area 1212 also permit the user to alter the display to provide additional information about the matches, such as bibliographical information").

b. Appellants' "Summary of Cox et al." Is Accurate

The Examiner's Answer disagrees with statements in Appellants' "Summary of Cox et al." at page 14 of the Appeal Brief. The full quotation reads as follows:

Cox discloses a queryless multimedia database retrieval method and system that maintain a posterior probability distribution for use in selecting the next images to display to the user. Cox discloses an entirely software driven selection system. *No human judgment* is involved in the criteria used to identify clips based on user selection.

First, the Examiner's Answer argues that Cox is not a "queryless" method and system. The Examiner's Answer defines "query" as "user selection of an image." Ironically, the Cox Abstract describes the invention as "[a] queryless, multimedia database search method incorporating a Bayesian inference engine that refines its answer with each user response." In a nutshell, Cox displays items in a database by capturing a user response to a set of displayed items and recomputing the probability distribution over the items in the database according to the user response (Claim 1).

Second, the Examiner's Answer admits that Balogh is relied on for a teaching of "human judgment." However, the Examiner's Answer continues to argue that the iterative user selections a Cox user makes is also a form of human judgment, because a human chooses selections subjectively. While, in the abstract this may be correct, this argument ignores how the term "human judgment" is used in the claims. "Human judgment," as used in the claims, pertains to the hidden criteria of the find similar clips indicia that identifies or groups media clips, not the subjective user response to a set of displayed items, as described in Cox. In Cox, the hidden criteria are calculated values representing "feature vectors" (e.g., image width, image, height, percentage of pixels that fall into ranges of colorspace, mean saturation, median intensity,

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contrast, etc., see Table 1) and feature weights (Table 2), which are not criteria based on "human judgment."

c. Appellants Reiterate, There Is No Motivation to Combine Balogh and Cox to Arrive at the Claimed Invention

The Examiner's Answer provides no basis for correlating that it would be obvious to combine Balogh and Cox to arrive at the claimed invention, i.e., the Examiner's Answer describes no motivation for combining the teachings of Balogh and Cox. Balogh is generally directed to a system and process for retrieving images using a natural language query and English language metadata associated with the image. In contrast, Cox is directed to a queryless multimedia database retrieval method and system that maintain a posterior probability distribution for use in selecting the next images to display to the user. Neither reference teaches or suggests why one of ordinary skill in the art would want to combine the teachings of a system for retrieving images using a language query with the teachings of a queryless method of finding items based on a probability distribution.

Cox, in fact, disavows query-based methods of searching, like the method of Balogh. As stated in Cox at Col. 1, lines 42-47, "query-based methods do not solve the problem of searching a multimedia database . . . because (1) multimedia data is generally not annotated with textual attribute descriptions, and (2) the vocabulary needed to describe a user's query may not exist or at least not be known to the user." Thus, Cox teaches away from, not toward, Balogh.

d. Balogh Describes a Different Query Development Process

The Examiner's Answer disagrees with statements in Appellants' "Argument" at pages 18 and 19 of the Appeal Brief. The full quotation reads as follows:

Balogh fails to teach or suggest "in response to a user selecting *a media clip*, retrieving information, including find similar clips indicia and keywords, associated with said selected media clip from said media clip database." . . . Thus, Balogh teaches returning matches based only on words or language entered in a

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query. In contrast, the present invention teaches *beginning with a media clip* (rather than words or language), and retrieving information "in response to a user selecting a media clip."

The Examiner's Answer argues that "Balogh does not rely solely on words and language, but instead relies on the combination of criteria and the media object itself." While Balogh describes that a user may use information from the captions retrieved from a first search in a subsequent search (Col. 14, lines 40-59), the description data (caption language) is copied into the new query as if that data had been input by the user, and therefore creates a new word or language query. More specifically, Balogh states as follows (Col. 14, lines 51-59):

From a user's perspective, such iterative querying is implemented by selecting the desired image using mouse clicks, and dragging the image into either the structured description area or the bibliographic area of the screen. The caption or the bibliographic data from the selected image is then copied to form the new query, just as if the same information had been input directly by the user, and the user may make further additions, deletions, or modifications to this information as desired.

In contrast, Claim 1, for example, recites: "in response to a user selecting a media clip, retrieving information, including find similar clips indicia and keywords, associated with said media clip from said media clip database." Elsewhere in Claim 1, the find similar clips indicia is recited as "including hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip." Claim 1 further recites that the keywords and find similar clips indicia are presented to the user for selection, and selection by the user creates search criteria that results in retrieving the media clips that match the search criteria.

The Balogh process and the claimed invention are entirely different. Balogh's image drag and drop action results in the copying of caption or bibliographic data associated with the image to form a new query that may be edited by a user. In contrast, the claimed invention provides for the display of keywords and find similar clips indicia when an image is selected, the find similar clips indicia including hidden criteria that identifies and/or groups media clips based on human

judgment regarding the content of the clips. While Balogh suggests that a user can make additions, deletions or modifications of the copied data, Balogh does not suggest creating search criteria by making selections from displayed keywords and find similar clips indicia, particularly find similar clips indicia that includes hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clips.

In summary, Balogh clearly does not disclose displaying keywords or find similar clips indicia, much less find similar clips indicia that include hidden criteria associated with a selected media clip *for selection* by a user when creating search criteria. This can occur at the beginning of a search or in subsequent search iterations. Balogh merely describes incorporation of caption or bibliographic data in a subsequent query.

This section (d) of the Examiner's Answer includes the following remark:

Although the rejection states that Balogh does not specifically teach "hidden" criteria, nevertheless, Balogh's descriptive captions and keywords suggest a form of hidden criteria.

Frankly, Appellants do not understand this remark. Appellants submit that Balogh's descriptive captions and bibliographic data do not suggest a form of hidden criteria. The foregoing remarks continue as follows:

The examiner uses the Cox reference to explicitly teach this feature, however, since Cox teaches "true hidden" criteria which is never shown to a user, but is nevertheless taught as essential criteria used to identify and judge an image.

Appellants disagree. While the "hidden" probability distributions of Cox are useful to the extent that they produce a relation between displayed items and items being searched for, they would have little if any meaning to a user even if displayed. Including hidden probability distribution data in the caption of Balogh even if obvious, which Appellants categorically deny, would only confuse a user.



e. Balogh Fails to Display an Option (for Selection) for Finding Similar Clips

The Examiner's Answer further disagrees with statements in Appellants' "Argument" at pages 23 and 24. The full quotation reads as follows:

Balogh fails to teach or suggest "directly in response to a user selecting *a media clip* from said media clip database, displaying to the user *an option* for finding similar media clips that have an associated find similar clips indicia and/or a keyword that matches the find similar clips indicia, human judgment and/or a keyword associated with the selected clip."

...

Balogh purportedly teaches that information inquiries are processed as in conventional keyword searching techniques (Col. 12, lines 9-11), and that a user may use information from the captions retrieved from a first search in a subsequent search (Col. 14, lines 40-59). However, Balogh does not disclose displaying to the user *an option* (for selection) for finding similar clips, without entering a new query with new search language.

The Examiner's Answer argues that "Balogh teaches this option by providing the optional capability of further search refinement via visually dragging and dropping an image, editing, etc." Although Balogh arguably provides an "option" for search refinement, Balogh does not teach finding similar media clips that have an associated find similar clips indicia and/or a keyword that matches the find similar clips indicia, human judgment and/or a keyword associated with the selected clip, much less such an option wherein the find similar clips indicia includes hidden criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clips.

CONCLUSION

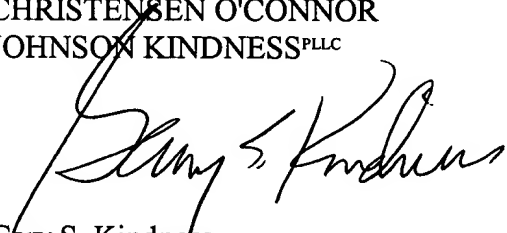
In view of the foregoing remarks, Appellants submit that all of the claims in the present application are clearly patentably distinguishable over the teachings of Balogh et al. and Cox et al. taken alone or in combination. In addition to the other differences, as discussed above, neither reference teaches or even remotely suggests a "find similar clips indicia including hidden

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criteria that identifies and/or groups media clips based on human judgment regarding the content of the media clip," a recitation included in all of the independent claims on Appeal. Therefore, Appellants submit that the rejections of Claims 1-9, 11, 12, 14-32, 34, 35, and 37-44 are erroneous, and request reversal of these rejections and passage of this application to issue.

Respectfully submitted,

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Date: June 13, 2005



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